

1 HONORABLE RICHARD A. JONES  
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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT SEATTLE

11 JERARDO RODRIGUEZ,  
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13 Plaintiff,

14 v.  
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16 SOHI HEMIT, et al.  
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18 Defendants.  
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20 Case No. C16-778-RAJ  
21

22 ORDER  
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24 This matter comes before the Court *sua sponte* on this Court's Order's dismissing  
25 Plaintiff's complaint with leave to amend. Dkt. # 76. Plaintiff filed this action  
26 complaining about his mail carrier and mail service. Dkt. ## 1-1, 41. Defendants filed a  
27 Motion to Dismiss for lack of subject matter jurisdiction and for failure to state a claim  
28 upon which relief can be granted. Dkt. ## 58, 66. On July 30, 2018, the Court granted  
Defendant's Motion to Dismiss and dismissed Plaintiff's Complaint. Dkt. # 76. The  
Court dismissed the complaint on the grounds that the Court lacked subject matter  
jurisdiction because Plaintiff failed to exhaust his administrative remedies, and because  
Plaintiff failed to state a claim. *Id.* The Court instructed that Plaintiff must file an  
amended complaint within fourteen (14) days of the date of the Order. *Id.* at 10-11. The  
Court explicitly warned Plaintiff: "If Plaintiff fails to adequately allege subject matter  
jurisdiction, or if Plaintiff fails to file an amended pleading by this deadline, this Court  
will dismiss this action with prejudice either *sua sponte* or by motion." *Id.*

Over two weeks have passed since the Court’s July 30, 2018 Order, and Plaintiff has not complied and has not filed any amended pleading. Plaintiff’s Amended Complaint still fails for lack of subject matter jurisdiction and still fails to set forth any actionable legal claim. The Court cannot see how Plaintiff’s complaint would be saved with further amendment. *Lucas v. Dep’t of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (dismissal without leave to amend is proper where “it is absolutely clear that no amendment can cure the defect”).

Accordingly, the Court **DISMISSES WITHOUT LEAVE TO AMEND** Plaintiff's Amended Complaint (Dkt. # 41). Plaintiff's claims as to all Defendants are hereby **DISMISSED WITH PREJUDICE**.

Dated this 15th day of August, 2018.

Richard D. Jones

The Honorable Richard A. Jones  
United States District Judge